

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

POWAY UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2015040467

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On May 19, 2015, Poway Unified School District filed with the Office of Administrative Hearings a request to continue the initial prehearing conference and hearing dates in this matter based upon unavailability of District's counsel. Student has not submitted a response

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied Without Prejudice. All hearing dates and timelines shall proceed as calendared. Here, District has requested a continuance of the initially set hearing dates, and OAH is inclined to grant the continuance. However, District did not discuss and confer with Student regarding new hearing dates as required by OAH. Forms are available on the OAH website that explain the procedure. The parties may

re-submit the request to continue after they have agreed upon hearing dates, or discuss the request at the May 22, 2015 PHC. If the parties are unable to agree on hearing dates, they may request OAH to select dates.

IT IS SO ORDERED.

DATE: May 21, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings